

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, .  
Complainant, . Case No. 16-CR-00441  
vs. . 16-CR-00087  
MARQUISE BELL, . 601 Market Street  
Defendant. . Philadelphia, PA 19106  
August 4, 2017  
2:06 p.m.  
.

TRANSCRIPT OF GUILTY PLEA HEARING  
BEFORE THE HONORABLE EDUARDO C. ROBRENO  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 (Proceedings commence at 11:20 a.m.)

2 (Call to order of the Court)

3 THE COURT: Good afternoon.

4 MR. NEWMAN: Good afternoon, Your Honor.

5 MS. MCCARTNEY: Good afternoon, Your Honor.

6 THE COURT: Please be seated. And thank you for  
7 accommodating our schedule to an earlier time.

8 The purpose of the proceeding today is for the  
9 defendant to change his previously entered plea, and to enter  
10 a plea to an indictment.

11 Would the defendant and counsel please come  
12 forward?

13 Would the clerk swear the defendant?

14 THE CLERK: Please raise your right hand.

15 MARQUISE BELL, DEFENDANT, SWORN.

16 THE CLERK: Please state your name for the record.

17 THE DEFENDANT: Marquise Bell.

18 VOIR DIRE EXAMINATION

19 BY THE COURT:

20 Q Good afternoon, Mr. Bell. How old are you?

21 A Twenty-six years old.

22 Q And how far did you go in school?

23 A Graduated.

24 Q From high school?

25 A Yes.

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1 Q Okay. Where did you go to high school?

2 A Arlene Lissner High School.

3 Q Okay. Here in Philadelphia?

4 A No.

5 Q Where?

6 A Marienville, Pennsylvania.

7 Q Okay. Would you keep your voice up? Because these  
8 matters are being recorded, so we need to be sure that your  
9 answers are recorded.

10 A Sure.

11 Q So I take it that you can read and write the English  
12 language?

13 A Yes, sir.

14 Q Okay. Are you -- where were you born?

15 A Philadelphia.

16 Q And are you a Citizen of the United States?

17 A Yes.

18 Q Okay. Have you taken any drugs, medicines, or pills in  
19 the last 24 hours, or have you drunk any alcoholic beverages  
20 in the last 24 hours?

21 A No, sir.

22 Q Have you ever been hospitalized or treated for mental  
23 illness or narcotic addiction?

24 A No, sir.

25 Q Are you currently, or have you recently been under the

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1 care of a physician or psychiatrist?

2 A A therapist came to my unit to talk to me, but she never  
3 came back.

4 Q Okay. How do you feel today, physically?

5 A Fair.

6 Q Okay. Have you been able to understand my questions, so  
7 far?

8 A Yes, sir.

9 Q Okay. Did you speak to your lawyer today?

10 A Yes, sir.

11 Q Were you able to understand what he was telling you?

12 A I'm going to say yes.

13 Q Okay. Is it -- how long did you speak with him.

14 A For about five, ten minutes.

15 Q Okay. But you've spoken to him before today.

16 A Yes.

17 Q Okay. Okay. Now do you understand that you have a  
18 right to be represented by an attorney at every stage of the  
19 proceedings against you; and, if you cannot afford the  
20 services of an attorney to try your case, one will be  
21 appointed to represent you?

22 A Yes, sir.

23 Q Do you have an attorney today?

24 A Yes, sir.

25 Q What is his name?

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1 A George Newman.

2 Q Okay. Have you discussed your case with Mr. Newman?

3 A Yes.

4 Q Okay. And are you satisfied with his representation so  
5 far?

6 A Yes.

7 Q Okay. Have you received a copy of the indictment; that  
8 is, the written charges made against you by the Grand Jury in  
9 this case?

10 A Yes, sir.

11 Q And did you talk to -- with Mr. Newman about those  
12 charges?

13 A Yes, sir.

14 Q I'm going to summarized them for you. You are charged  
15 in Case 16-441 with possession of ammunition by a convicted  
16 felon, in violation of Title 18, United States Code, Section  
17 922(g). And you are charged in another case, in case 17-87,  
18 with robbery, which interferes with interstate commerce, in  
19 violation of Title 18, United States Code, Section 1951(a).  
20 Do you understand those to be the charges against you?

21 A Yes, sir.

22 THE COURT: Now, Ms. McCartney, is there a plea  
23 agreement in this case?

24 MS. MCCARTNEY: There is not, Your Honor.

25 THE COURT: Okay. Thank you.

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1 BY THE COURT:

2 Q I'm going to discuss with you now, Mr. Bell, the rights  
3 that you will be giving up by pleading guilty in this case.

4 The suggests answers to my questions are: Yes, no, or I  
5 don't understand. And then I will explain it to you, if you  
6 so wish. So let me begin, and this will take about 15  
7 minutes.

8 Do you understand that, by pleading guilty, you're  
9 giving up the right to challenge the indictment returned  
10 against you in the Grand Jury proceedings, which were used in  
11 obtaining the indictments?

12 A Yes, sir.

13 Q Do you understand that you are entitled to plead not  
14 guilty?

15 A Yes, sir.

16 Q Do you understand that you have a right to be tried by a  
17 jury or by a judge without a jury if you do not plead guilty?

18 A Yes, sir.

19 Q Do you understand that, if you do not plead guilty, you  
20 could participate in the selection of the jury at trial?

21 A Yes, sir.

22 Q Do you understand that, if you went to trial, you would  
23 have the right to be tried with the assistance of a lawyer?

24 A Yes, sir.

25 Q Do you understand that, if you went to trial, you'd be

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1 presumed innocent, the Government would be required to prove  
2 you guilty by competent evidence and beyond a reasonable  
3 doubt, and that you would not have to prove that you were  
4 innocent?

5 A Yes, sir.

6 Q Do you understand that, if you went to trial, witnesses  
7 for the Government would have to come to court and testify in  
8 your presence, that you would have a right to confront those  
9 witnesses, that your attorney could cross-examine the  
10 witnesses for the Government, object to evidence offered by  
11 the Government, and offer evidence on your behalf?

12 A Yes, sir.

13 Q Do you understand that, by pleading guilty, you are  
14 giving up the right to challenge the manner in which the  
15 Government obtained evidence against you in these cases; and  
16 that that evidence may include admissions or confessions made  
17 by you, physical evidence, wiretap evidence, or  
18 identification evidence?

19 A Yes, sir.

20 Q Do you understand that, if you went to trial, you will  
21 have the right to subpoena and compel the attendance of  
22 witnesses, and that you would have the right to present  
23 evidence, including character witnesses, whose testimony  
24 could raise a reasonable doubt?

25 A Yes, sir.

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1 Q Do you understand that, if you went to trial, while you  
2 will have the right to testify if you chose to do so, you  
3 also would have the right not to testify, and no inference or  
4 suggestion of guilt could be drawn from the fact that you did  
5 not testify?

6 A Yes, sir.

7 Q Do you understand that you have a right not to be  
8 compelled to incriminate yourself?

9 A I don't understand what you said.

10 THE COURT: Mr. Newman, do you want to discuss that  
11 with Mr. Bell off the record?

12 MR. NEWMAN: Sure.

13 (Defendant and counsel confer)

14 THE DEFENDANT: Yes, sir.

15 BY THE COURT:

16 Q Let me repeat the question. Do you understand that you  
17 have a right not to be compelled to incriminate yourself;  
18 that is, to force you to testify at trial?

19 A Yes, sir.

20 Q Do you understand that your attorney could argue to the  
21 jury or to the Court on your behalf and against the  
22 Government's case?

23 (Defendant and counsel confer)

24 BY THE COURT:

25 Q If you went to trial --

1 A Yes, sir.

2 Q -- your attorney could argue to the jury or to the Court  
3 on your behalf, and against the Government's case.

4 A Yes, sir.

5 Q Do you understand that you can only be convicted by a  
6 jury which unanimously found you guilty?

7 A Yes, sir.

8 Q If you went to trial, and you were found guilty, do you  
9 understand that you will be able to appeal the verdict to an  
10 appellate court, that you could have a lawyer represent you  
11 on the appeal, and that the Appellate Court might reverse a  
12 conviction?

13 A Yes, sir.

14 Q Now, specifically as to this case, if you plead guilty,  
15 and I accept your plea, do you understand that you are  
16 waiving -- meaning giving up forever -- your right to a  
17 further trial of any kind, as well as any other rights I have  
18 discussed with you, and that there will be no trial?

19 A Yes, sir.

20 Q Do you understand that, if you plead guilty, I will  
21 enter a judgment of guilty, and sentence you on the basis of  
22 your guilty plea, taking into account the advice of the  
23 sentencing guidelines, and based on the factors set forth in  
24 Title 18, United States Code, Section 3553, and the  
25 presentence investigation report?

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1 (Defendant and counsel confer)

2 Q Okay. Let me repeat it for you. Do you understand  
3 that, if you plead guilty, I will enter a judgment of guilty,  
4 and that I will then sentence you on the basis of your guilty  
5 plea, taking into account the advice of the sentencing  
6 guidelines, and based on the factors set forth in Title 18,  
7 United States Code, Section 3553, and the presentence  
8 investigation report?

9 A Yes, Your Honor. May I ask you a question?

10 Q Yes.

11 A So what me and my lawyer was talking about, about my  
12 guidelines, that's not the same thing as -- as you're talking  
13 about, sir?

14 Q What are the guidelines in this case, the proposed  
15 guidelines -- and again, we will know -- we will not know  
16 exactly what the guidelines are until the presentence  
17 investigation report is generated, and then you'll get an  
18 opportunity to object. But your lawyer certainly has advised  
19 you of what he calculates the guidelines to be.

20 THE COURT: Mr. Newman?

21 THE DEFENDANT: But he had told me it was --

22 MR. NEWMAN: No, you don't have to get into what I  
23 told you.

24 (Defendant and counsel confer)

25 THE COURT: Yeah, let me Newman answer that.

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1                   MR. NEWMAN: Pardon?

2                   THE COURT: Tell me, what would you -- what would  
3 you calculate the proposed guidelines to be?

4                   MR. NEWMAN: The -- tentatively, Your Honor, we --  
5 I concluded that they were 37 to 46 months. He's an offense  
6 level of 17. I don't think there are any enhancements, and  
7 he's --

8                   THE COURT: He's at the Offense Level 17?

9                   MR. NEWMAN: I believe the offense level would --

10                  THE COURT: And how about criminal history  
11 category?

12                  MR. NEWMAN: Would be 4.

13                  THE COURT: Okay.

14                  MR. NEWMAN: And so the guidelines are 37 to 46.  
15 And I told Mr. Bell that that's not a guarantee that those  
16 are the guidelines, that the Probation Office will look at  
17 them, they may come to a different conclusion. But I am  
18 reasonably confident those are the guidelines.

19                  THE COURT: Okay.

20                  MR. NEWMAN: But I cannot guarantee that they will  
21 --

22                  THE COURT: You cannot guarantee it.

23 BY THE COURT:

24 Q               And it will be, ultimately up to the Court to decide  
25 your guidelines. Now a presentence report will be generated,

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1 and you'll have an opportunity to either agree with it or  
2 object to it, and then I will make the final determination.  
3 Do you understand that?

4 A Yes, sir.

5 Q Okay. So let me ask you this again then. Do you  
6 understand that, if you plead guilty, I will enter a judgment  
7 of guilty and sentence you on the basis of your guilty plea,  
8 taking into account the advice of the sentencing guidelines,  
9 and based on the factors set forth in Title 18, United States  
10 Code, Section 3553, and the presentence investigation report?

11 A Yes, sir.

12 Q Okay. If you plead guilty, do you understand that I may  
13 ask you questions about what you did, in order to satisfy  
14 myself that you're guilty as charged?

15 A Yes, sir.

16 Q Do you understand that you're pleading guilty to the  
17 following crimes: In Case 16-441, you are pleading guilty to  
18 possession of ammunition by a convicted felon, in violation  
19 of Title 18, United States Code, Section 922(g). And in Case  
20 17-87, you are pleading guilty to robbery, which interferes  
21 with interstate commerce, in violation of Title 18, United  
22 States Code, Section 1951(a). Do you understand those to be  
23 the crime to which you are pleading guilty today?

24 A Yes, sir.

25 Q Do you understand that the essential elements of the

1           crimes to which you are pleading guilty today, and which the  
2           Government would have to prove at trial beyond a reasonable  
3           doubt, are the following:

4           As to the possession of ammunition by a convicted felon,  
5           there are three elements:

6           One, the defendant has been convicted of a crime  
7           punishable by more than one year in prison.

8           Two, the defendant knowingly possessed the ammunition.

9           And three, the ammunition was possessed in or affecting  
10          commerce.

11          As to the robbery, which interferes with interstate  
12          commerce, there are three elements:

13          One, the defendant has been convicted of a crime  
14          punishable by more than one year in prison.

15          Two, the --

16           (Court and court personnel confer)

17           (Defendant and counsel confer)

18          BY THE COURT:

19          Q      Yeah, let me -- as to the robbery, which interferes with  
20          interstate commerce, disregard what I previously said, and  
21          now I will tell you the three elements of the robbery, which  
22          interferes with interstate commerce:

23          One, the defendant obtained or took the personal  
24          property of another, or from the presence of another.

25          Two, the defendant took this property against the

1 victim's will, by means of actual or threatened force,  
2 violence, or fear of injury, whether immediately or in the  
3 future, to his personal property or property in his custody.

4           And three, as a result of the defendant's actions,  
5 interstate commerce, or any item moving in interstate  
6 commerce, was delayed, obstructed, or affected in any way or  
7 degree.

8           Do you agree that these are the elements of the crimes  
9 to which you are pleading guilty today?

10          A      Yes, sir.

11                 THE COURT: Okay. Would the Assistant United  
12 States Attorney now please summarize the factual basis for  
13 this plea?

14                 MS. MCCARTNEY: Yes, Your Honor. If we had gone to  
15 trial, the Government would have presented the following  
16 facts:

17                 On September 1st, 2015, at approximately 7:35 p.m.,  
18 this defendant and his coconspirator Samuel Robinson entered  
19 the Metro PCS cell phone store, located at 4229 North Broad  
20 Street, in Philadelphia, Pennsylvania. They entered the  
21 business wearing stockings, to obscure their faces,  
22 brandished a weapon appearing to be a firearm, and  
23 immediately walked behind the cash register counter.

24                 Defendant Bell grabbed the store employee by the  
25 neck, aimed the firearm at his neck, and threw him to the

1 ground. Coconspirator Robinson detained a customer who was  
2 present in the store at the time. As the employee lay on the  
3 ground, Bell removed cash from the register. And when the  
4 employee attempted to grab Bell's arms to halt the theft,  
5 Bell struck the employee with the weapon, breaking off a  
6 piece of that in the process. Realizing that the firearm was  
7 fake, the employee stood up, and again attempted to halt the  
8 robbery.

9 As Bell and the employee struggled, Bell pushed the  
10 employee away, and he and Robinson fled the building with  
11 approximately \$1,000. As he fled, Bell dropped his hat.  
12 Philadelphia Police, who responded to the scene, recovered  
13 the hat and preserved it for subsequent DNA testing.

14 At the time of the robbery, the Metro PCS store  
15 sold cellular telephones and other goods purchased, produced,  
16 and manufactured outside the State of Pennsylvania.

17 Subsequent to the recovery of the discarded hat, a  
18 warrant was obtained to seize Bell's DNA. And on September  
19 30th, 2016, in an effort to execute that DNA warrant, FBI  
20 agents, task force officers, and Philadelphia Police Officers  
21 traveled to Bell's residence at 3222 West Montgomery Avenue  
22 in Philadelphia.

23 Once at the house, they spoke with Mr. Bell's  
24 uncle, who advised them that he was in his bedroom, on the  
25 third floor, at the back of the residence. When the agents

1           reached Bell's room, they realized he was gone. However, the  
2           room smelled of recent cigarette smoke, as if someone had  
3           just been smoking inside the room.

4           The agents looked outside the window and saw Mr.  
5           Bell curled up in a ball in the corner of the roof,  
6           attempting to hide. He appeared to be using his cell phone,  
7           and was only partially clothed, despite the fact that it was  
8           raining. Beside him was a large plastic bag, and protruding  
9           from that bag was a cardboard box, marked "Winchester," which  
10          the experienced agents recognized as a box for Winchester  
11          bullets. Bell was arrested, and inside the bag, agents found  
12          the following:

13           Two loose .45 caliber rounds marked "TZZ87."

14           Thirty loose rifle rounds marked "POF6777."

15           Two loose Winchester .38 special full metal jacket  
16          rounds.

17           Twelve Winchester .38 special full metal jacket  
18          rounds, inside of a Winchester ammunition box.

19           Eight Remington 12 gauge paper-wrapped shotgun  
20          shells stamped "long range."

21           One Sears 12 gauge seven and a half shotgun shell.

22           Three Remington 12 gauge seven and a half shotgun  
23          shells.

24           Five Federal 12 gauge zero zero buckshot gun  
25          shells.

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1                   The Government would produce evidence that all of  
2                   these rounds of ammunition were manufactured outside the  
3                   State of Pennsylvania.

After Mr. Bell was arrested, agents applied for a second warrant to search his bedroom, and during that search, they uncovered component parts to an Uzi conversion kit, used to upgrade a nine-millimeter Uzi submachine gun to a .45 caliber firearm, and .45 caliber ammunition, also manufactured outside the State of Pennsylvania, that would fit the Uzi submachine gun was also found within the seized white bag possessed by Bell.

12                   The Government would also present evidence that  
13                  would establish that, at the time Mr. Bell possesses the  
14                  above-reference ammunition, he had previously been convicted  
15                  of a crime punishable by more than one year in jail.

16                   That's a summary of the evidence that the  
17                   Government would have produced, had we gone to trial, Your  
18                   Honor.

**FURTHER VOIR DIRE EXAMINATION**

20 BY THE COURT:

21 Q So, Mr. Bell, do you understand that you have a right to  
22 have the facts just stated by the Assistant United States  
23 Attorney, as they relate to both the -- 16-441, the  
24 possession count, the possession case, and 17-87, the robbery  
25 case, submitted to a jury and proved beyond a reasonable

1           doubt?

2       A     Yes, sir.

3       Q     Do you understand that, if you were to agree that the  
4           Assistant United States Attorney has correctly and accurately  
5           summarized the factual basis for the plea, you would be  
6           admitting to those facts, and those facts may be considered  
7           by the Court to enhance your criminal history category and/or  
8           total offense level, and for any other reason during the  
9           sentencing phase of this case?

10      A     Yes, sir.

11      Q     In light of those circumstances, do you agree that the  
12           Government has correctly and accurately summarized the facts  
13           of the case against you, in both 16-441 and 17-87?

14      A     Yes, sir.

15                   THE COURT: Would the Assistant United States  
16           Attorney please state the maximum penalty, and include any  
17           mandatory minimums, fines, and special assessments applicable  
18           to this case?

19                   MS. MCCARTNEY: Yes, Your Honor. For violating 18,  
20           United States Code, 922(g), possession of ammunition by a  
21           convicted felon, the defendant faces a statutory maximum of  
22           10 years imprisonment, up to 3 years of supervised release, a  
23           two-hundred-and-fifty-thousand-dollar fine, and a hundred-  
24           dollar special assessment.

25                   For violating 18, United States Code, 1951(a),

1       Hobbs Act robbery, the defendant faces a statutory maximum of  
2       20 years in jail, three years of supervised release, a two-  
3       hundred-and-fifty-thousand-dollar fine, and a one-hundred-  
4       dollar special assessment.

5 There are no mandatory minimums applicable to these  
6 charges, Your Honor.

FURTHER VOIR DIRE EXAMINATION

8 BY THE COURT:

9 Q Mr. Bell, do you understand the maximum penalty to be as  
10 just stated by the Assistant United States Attorney?

11 A Yes, sir.

12 Q Has your attorney discussed with you the sentencing  
13 guidelines?

14 || (Defendant and counsel confer)

15 A Yes, sir. Yes.

16 Q Do you understand that the sentencing guidelines are now  
17 advisory, and are not binding upon the Probation Office, nor  
18 the Court?

19 (Defendant and counsel confer)

20 A Yes, sir.

21 Q Okay. So you understand that the advisory guidelines,  
22 which, tentatively, your lawyer suggested may be in the range  
23 of 37 to 46 months, are advisory; that means that they are  
24 suggested to the Court, those or whatever guidelines the  
25 probation officer reports. But it is, ultimately, up to me

1 to determine what your sentence will be, so long as it falls  
2 below the statutory maximum. Do you understand that?

3 A Yes, sir.

4 Q Okay. So do you understand that the Court will not be  
5 able to determine how the advisory sentencing guidelines will  
6 apply in these cases until after the presentence report is  
7 completed, and you and the Government had an opportunity to  
8 challenge the facts reported by the probation officer?

9 (Defendant and counsel confer)

10 A Yes, sir.

11 Q Do you understand that the Court, in appropriate  
12 circumstances, and in light of the factors contained in Title  
13 18, United States Code, Section 3553, impose a sentence which  
14 is either more severe or less severe; that is, higher or  
15 lower, than the sentence which the advisory guidelines  
16 recommend?

17 A Yes, sir.

18 Q Do you understand that parole has been abolished, and  
19 that you will not be released on parole if you are sent to  
20 prison?

21 (Defendant and counsel confer)

22 A Yes, sir.

23 Q Do you understand that, if you are sent to prison, a  
24 term of supervisory release will be imposed when you are  
25 released from prison?

1 A Yes, sir.

2 Q In summary, have you discussed with your attorney your  
3 charges, your right to contest them, and the maximum possible  
4 penalty?

5 (Defendant and counsel confer)

6 Q Let me repeat that question. Have you discussed with  
7 your attorney, with Mr. Newman, the charges, your right to  
8 contest those charges, and the maximum possible penalty that  
9 you may receive in these cases?

10 A Yes, we talked about it.

11 Q Okay. Do you have any questions?

12 (Defendant and counsel confer)

13 A No, sir.

14 Q Okay. Do you understand that, by pleading guilty and by  
15 waiving the rights I have discussed with you, you cannot  
16 later come to any court or to this Court, and claim that you  
17 were not guilty, or that your rights have been violated?

18 A Yes, sir.

19 Q Has anybody threatened you, coerced you, or forced you,  
20 in any way, to plead guilty in this case?

21 A No, sir.

22 Q Okay. Do you have any agreement, including any plea  
23 agreement, with the Government in this case, that has not  
24 been disclosed?

25 (Defendant and counsel confer)

1 A No. No, sir.

2 Q Have -- this is the final question. Having heard from  
3 me what your rights are if you plead not guilty, and what may  
4 happen if you plead guilty, do you want to plead guilty in  
5 these cases, both cases? And that's 16-441 and 17-87. Do  
6 you want to plead guilty or do you want to plead not guilty?

7 A Pleading guilty.

8 Q As to both cases?

9 A Yes, sir.

10 THE COURT: Do either the attorney for the  
11 Government or the defendant have any doubt as to the  
12 defendant's competence to enter a plea. Government Counsel?

13 MS. MCCARTNEY: No, Your Honor.

14 THE COURT: Defense counsel?

15 MR. NEWMAN: No. No, sir.

16 THE COURT: Are counsel satisfied that the  
17 willingness to plead guilty is voluntary, that a guilty plea  
18 is not based on any agreement, which was entered into by the  
19 defendant and the Government; that the guilty plea has been  
20 made with a full understanding by the defendant of the nature  
21 of the charges, the maximum penalty provided by law, and of  
22 the defendant's legal right to contest those charges, and  
23 that there is a factual basis for the plea? Government  
24 Counsel, are you satisfied?

25 MS. MCCARTNEY: Yes, Your Honor.

1                   THE COURT: Defense counsel?

2                   MR. NEWMAN: Yes, Your Honor.

3                   THE COURT: Do the attorneys for the Government or  
4                   the defendant have any questions before the Deputy Courtroom  
5                   Clerk takes the new plea?

6                   MR. NEWMAN: No, Your Honor.

7                   MS. MCCARTNEY: No, Your Honor.

8                   MR. NEWMAN: No, sir.

9                   THE COURT: Okay. Mr. Bell, you have an  
10                  opportunity to speak to the Court at the time of sentencing.  
11                  But if there's anything that you would like to say at this  
12                  time, or any questions that you would like to ask -- and I'm  
13                  not suggesting that you should say anything or do anything at  
14                  this time. But if you want to, I want to give you an  
15                  opportunity to say so now.

16                  (Defendant and counsel confer)

17                  THE DEFENDANT: No, sir.

18                  THE COURT: Okay. The Clerk will now take the  
19                  pleas.

20                  THE CLERK: Marquise Bell, you have, heretofore,  
21                  pled not guilty to Criminal Indictment Number 16-441,  
22                  consisting of one count, charging you with one count of  
23                  possession of ammunition by a convicted felon, in violation  
24                  of Title 18, United States Code, Section 922(g)(1). How say  
25                  you, guilty or not guilty?

1                   THE DEFENDANT: Guilty.

2                   THE COURT: Okay.

3                   THE CLERK: In addition, you have, heretofore, pled  
4 not guilty to Criminal Indictment Number 17-87, consisting of  
5 one count, charging you with one count of robbery, which  
6 interfered with interstate commerce, in violation of Title  
7 18, United States Code, Section 1951(a)(2). Now how say you,  
8 guilty or not guilty?

9                   THE DEFENDANT: Guilty.

10                  THE COURT: I find that the defendant is competent  
11 to change his previous plea and to enter informed pleas; that  
12 his plea of guilty in both cases is voluntary, and not the  
13 result of force or threat or promises; that there is a  
14 factual basis for the plea of guilty; that there is no  
15 agreement between the defendant and the Government concerning  
16 the disposition of this case; that the defendant understands  
17 the charges as they arise and the maximum possible penalty;  
18 and that the defendant understands that he is waiving his  
19 right to a trial.

20                  The Court accepts the guilty plea on both cases; on  
21 16-441 and 17-87. And the defendant is now adjudged guilty  
22 in both cases.

23                  I will order a presentence investigation report by  
24 the Probation Department, and the defendant and counsel will  
25 have an opportunity to read and comment upon the report

1 before the date of the sentencing hearing. The defendant and  
2 counsel will also have an opportunity to speak to the Court  
3 at the time of the sentencing hearing.

4 Sentencing is set for November 20th of the year  
5 2017, at 9 a.m., in Courtroom 15A of this courthouse, or in  
6 such other courtroom as may be designated on that date.

7 (Defendant and counsel confer)

8 THE COURT: So, Ms. McCartney, anything further  
9 today?

10 MS. MCCARTNEY: No, Your Honor.

11 THE COURT: Mr. Newman?

12 MR. NEWMAN: If I may just have one moment --

13 THE COURT: Yes.

14 MR. NEWMAN: -- Your Honor?

15 THE COURT: Sure.

16 (Defendant and counsel confer)

17 MR. NEWMAN: Judge, just one other thing --

18 THE COURT: Yes.

19 MR. NEWMAN: -- I want to bring up. There's  
20 certainly no issue regarding competency, but my client is  
21 depressed.

22 THE COURT: Yes.

23 MR. NEWMAN: I mean, there's just no question that  
24 he is; I've seen this before, the monosyllabic answers. So,  
25 if there's some way we could get some kind of examination of

1 him by a clinician --

2 THE COURT: Okay.

3 MR. NEWMAN: -- if Your Honor could order that.

4 And he's agreeable --

5 THE COURT: Yeah.

6 MR. NEWMAN: -- I just consulted with him, but --

7 THE COURT: Yeah. Well, I think that what I would  
8 do -- I don't know if I can order it, if it's not a  
9 competency issue, but I think I would strongly suggest it,  
10 that the detention center do that.

11 And maybe, Ms. McCartney, could you assist on that,  
12 passing on that word?

13 MS. MCCARTNEY: I'm happy to call the legal counsel  
14 --

15 THE COURT: Yes.

16 MS. MCCARTNEY: -- for the BOP --

17 THE COURT: Uh-huh.

18 MS. MCCARTNEY: -- and loop her into our  
19 discussions here, and the Court's desire for him to have some  
20 treatment.

21 THE COURT: Yes.

22 MS. MCCARTNEY: Yes.

23 THE COURT: Okay. So, Mr. Newman, Ms. McCartney  
24 will effectuate this, check with her in a week or so and see  
25 how we're doing. But it's my recommendation that the

1 defendant be afforded mental health assistance or treatment -  
2 -

3 MR. NEWMAN: I think that would help a lot.

4 THE COURT: -- under the circumstances of this  
5 case, with the understanding that that's not a suggestion of  
6 incompetency at this time, but it's -- I think that's a very  
7 reasonable and fair suggestion.

8 MR. NEWMAN: I think it will assist the Court in  
9 fashioning a sentence --

10 THE COURT: Okay.

11 MR. NEWMAN: -- knowing what his psychological  
12 state is.

13 THE COURT: Fine.

14 MR. NEWMAN: So I appreciate that.

15 THE COURT: Very well.

16 MR. NEWMAN: Thank you very much, Your Honor.

17 THE COURT: Thank you. The hearing is adjourned.

18 The defendant is remanded at this time.

19 MS. McCARTNEY: Thank you, Your Honor. Have a nice  
20 weekend.

21 THE COURT: Thank you.

22 THE COURT OFFICER: All rise.

23 (Proceedings concluded at 2:36 p.m.)

24 \*\*\*\*\*

## CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of our knowledge and ability.

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*Colin Fassnacht*

February 7, 2018

Coleen Rand, AAERT Cert. No. 341

Certified Court Transcriptionist

For JDR Acquisition, LLC/

## Advanced Transcription